

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TEXARKANA DIVISION

RIGOBERTO PORTILLO

§

v.

§ CIVIL ACTION NO. 5:12cv92

UNITED STATES OF AMERICA

§

MEMORANDUM ADOPTING REPORT AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE
AND ENTERING FINAL JUDGMENT

The Plaintiff Rigoberto Portillo, proceeding *pro se*, filed this civil action lawsuit under the Freedom of Information Act complaining that he has not been provided with certain information that he requested. This Court ordered that the matter be referred to the United States Magistrate Judge pursuant to 28 U.S.C. §636(b)(1) and (3) and the Amended Order for the Adoption of Local Rules for the Assignment of Duties to United States Magistrate Judges.

Portillo submitted an application for leave to proceed *in forma pauperis*, but did not furnish an inmate trust account data sheet or inmate account statement which was certified by an authorized official at the institution at which he is confined, as required by 28 U.S.C. §1915(a)(2). On October 5, 2012, the Magistrate Judge ordered Portillo to furnish such a data sheet or account statement. Portillo received a copy of this order on October 11, 2012, but has not complied, nor has he responded in any way.

On December 10, 2012, the Magistrate Judge issued a Report recommending that the case be dismissed without prejudice for failure to prosecute or to obey an order of the Court. Portillo received a copy of this Report on or before December 14, 2012, but has filed no objections thereto; accordingly, he is barred from *de novo* review by the district judge of those findings, conclusions, and recommendations and, except upon grounds of plain error, from appellate review of the unobjection-to proposed factual findings and legal conclusions accepted and adopted by the district

court. Douglass v. United Services Automobile Association, 79 F.3d 1415, 1430 (5th Cir. 1996) (*en banc*).

The Court has reviewed the pleadings in this cause and the Report of the Magistrate Judge. Upon such review, the Court has determined that the Report of the Magistrate Judge is correct. *See United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir.), *cert. denied*, 492 U.S. 918, 109 S.Ct. 3243 (1989) (where no objections to a Magistrate Judge's Report are filed, the standard of review is "clearly erroneous, abuse of discretion and contrary to law."). It is accordingly

ORDERED that the Report of the Magistrate Judge (docket no. 5) is hereby ADOPTED as the opinion of the District Court. It is further

ORDERED that the above-styled civil action be and hereby is DISMISSED without prejudice for failure to prosecute or to obey an order of the Court. Finally, it is

ORDERED that any and all motions which may be pending in this action are hereby DENIED.

It is SO ORDERED.

SIGNED this 24th day of January, 2013.



MICHAEL H. SCHNEIDER
UNITED STATES DISTRICT JUDGE